

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
TADASHI OKAMOTO) : Examiner: Mark Staples
Application No.: 10/591,798) : Group Art Unit: 1637
371(c) Date: May 29, 2007) : Confirmation No. 4676
For: METHOD OF DETECTING)
NUCLEIC ACID USING) :
AMPLIFICATION ON AN)
ARRAY : October 19, 2009

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to a restriction requirement set forth in the Office Action dated September 18, 2009, Applicant provisionally elects to prosecute the Group I claims, namely Claims 1 to 20. The restriction requirement is, however, traversed.

Traversal is on the ground that there would not be undue burden in examining the three groups of claims in a single application. In particular, MPEP § 808 makes clear that in order to require restriction between independent or distinct inventions, reasons for insisting upon a restriction requirement, such as undue burden, must also be shown. In the present instance, it is not believed that there would be an undue burden in examining the claims of Groups I to III in a single application, since the three groups of claims are not so different as would require a burden on the Examiner that is significantly beyond that of the normal burdens of examination.

Accordingly, reconsideration and withdrawal of the restriction requirement are respectfully requested.

In response to the requirement to elect species, Applicant elects Species (1), allegedly drawn to a sequential base region within the region between a 3' end of the A strand and the sequence to be detected, and detecting the hybridized product in the array. Applicant submits that Claims 1, 5 to 10, 16, 19, and 20 read on the elected species. This election is made without traverse.

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Damond E. Vadnais/
Damond E. Vadnais
Attorney for Applicant
Registration No. 52,310

FITZPATRICK, CELLA, HARPER & SCINTO
1290 Avenue of the Americas
New York, New York 10104-3800
Facsimile: (212) 218-2200

FCHS_WS 3994434v1